

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 353

Introduced by Assembly Member Lackey

February 17, 2015

An act to amend Section 5515 of, *and to add Section 2081.6 to*, the Fish and Game Code, relating to fish.

LEGISLATIVE COUNSEL’S DIGEST

AB 353, as amended, Lackey. ~~Fish: fully protected species: taking or possession.~~ *Protected species: take: Bouquet Canyon: habitat restoration project.*

Existing law prohibits the taking or possession of any fully protected fish, except as provided. ~~Under existing law, the Department of Fish and Wildlife is authorized to permit the taking of those species for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species.~~ *provided, and designates the unarmored threespine stickleback as a fully protected fish. The California Endangered Species Act prohibits the taking of an endangered or threatened species, except as specified. The Department of Fish and Wildlife may authorize the take of listed species if the take is incidental to an otherwise lawful activity and the impacts are minimized and fully mitigated.*

~~This bill would make a nonsubstantive change to those provisions.~~ *require the department to authorize, under the California Endangered Species Act, the take of the unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*) resulting from impacts attributable to the habitat restoration project to restore and improve riparian habitat on public lands in the Bouquet Canyon area, and projects to restore*

the flow capacity to Bouquet Creek in Bouquet Canyon on public lands, as specified, if certain conditions are satisfied.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 2081.6 is added to the Fish and Game*
2 *Code, to read:*
3 *2081.6. The department shall authorize, under this chapter,*
4 *the take of the unarmored threespine stickleback (*Gasterosteus**
5 *aculeatus williamsoni) resulting from impacts attributable to the*
6 *habitat restoration project to restore and improve riparian habitat*
7 *on public lands in the Bouquet Canyon area, and projects to restore*
8 *the flow capacity to Bouquet Creek in Bouquet Canyon on public*
9 *lands, undertaken by the Los Angeles County Department of Public*
10 *Works, the Los Angeles Department of Water and Power, and the*
11 *United States Department of Agriculture, Forest Service, if all of*
12 *the following conditions are satisfied:*
13 *(a) The department has determined that the appropriate*
14 *agreements have been executed to address environmental impacts*
15 *at the Bouquet Canyon area, including, but not limited to, Bouquet*
16 *Creek.*
17 *(b) The requirements of subdivisions (b) and (c) of Section 2081*
18 *are satisfied for the take of the unarmored threespine stickleback.*
19 *(c) The take authorization provides for the development and*
20 *implementation, in cooperation with federal and state agencies,*
21 *of an adaptive management process for monitoring the effectiveness*
22 *of, and adjusting, as necessary, the measures to minimize and fully*
23 *mitigate the impacts of the authorized take. The adjusted measures*
24 *are subject to Section 2052.1.*
25 *(d) The take authorization provides for the development and*
26 *implementation, in cooperation with state and federal agencies,*
27 *of an adaptive management process that substantially contributes*
28 *to the long-term conservation of the unarmored threespine*
29 *stickleback.*
30 ~~SECTION 1.~~
31 *SEC. 2. Section 5515 of the Fish and Game Code is amended*
32 *to read:*

5515. (a) (1) Except as provided in Section 2081.6, 2081.7, or 2835, fully protected fish or parts thereof may not be taken or possessed at any time. No provision of this code or any other law shall be construed to authorize the issuance of permits or licenses to take any fully protected fish, and no permits or licenses heretofore issued shall have any force or effect for that purpose. However, the department may authorize the taking of those species for necessary scientific research, including efforts to recover fully protected, threatened, or endangered species. Before authorizing the take of any of those species, the department shall make an effort to notify all affected and interested parties to solicit information and comments on the proposed authorization. The notification shall be published in the California Regulatory Notice Register and be made available to each person who has notified the department, in writing, of his or her interest in fully protected species and who has provided an e-mail address, if available, or postal address to the department. Affected and interested parties shall have 30 days after notification is published in the California Regulatory Notice Register to provide any relevant information and comments on the proposed authorization.

(2) As used in this subdivision, “scientific research” does not include any actions taken as part of specified mitigation for a project, as defined in Section 21065 of the Public Resources Code.

(3) Legally imported fully protected fish or parts thereof may be possessed under a permit issued by the department.

(b) The following are fully protected fish:

- (1) Colorado River squawfish (*Ptychocheilus lucius*).
- (2) Thicktail chub (*Gila crassicauda*).
- (3) Mohave chub (*Gila mohavensis*).
- (4) Lost River sucker (*Catostomus luxatus*).
- (5) Modoc sucker (*Catostomus microps*).
- (6) Shortnose sucker (*Chasmistes brevirostris*).
- (7) Humpback sucker (*Xyrauchen texanus*).
- (8) Owens River pupfish (*Cyprinodon radiosus*).
- (9) Unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*).
- (10) Rough sculpin (*Cottus asperimus*).